IN THE SUPERIOR COURT OF BIBB COUNTY STATE OF GEORGIA

RON COLLIER,

Plaintiff,

v.

Civil Action No. 12CV58504

BIBB COUNTY SCHOOL DISTRICT,

Defendant.

FIRST AMENDED COMPLAINT

COMES NOW Plaintiff Ron Collier and, before the entry of a pretrial order and in accordance with O.G.G.A. § 9-11-15(a), amends the Complaint he filed in this action on December 20, 2012 by substituting the following allegations for the allegations made in that Complaint:

Parties

1.

Plaintiff Ron Collier ("Mr. Collier") is a resident of Bibb County, Georgia and owns property in Bibb County, Georgia.

2.

Mr. Collier has a child that attends the Bibb County Public Schools.

3.

School taxes are levied against Mr. Collier annually and Mr. Collier pays those taxes.

4.

Defendant Bibb County School District (the "School District") is a political and corporate body that has its office in Bibb County, Georgia and that does business in Bibb County, Georgia.

The Board of Public Education for Bibb County, Georgia (the "Board of Education") is the School District's governing body.

6.

The School District, by and through the Board of Education, has established and it operates and maintains a public school system for the school-age children of Bibb County, Georgia.

7.

The School District, by and through its Board of Education, determines the millage rate at which school taxes are levied against the school taxpayers of Bibb County such as Mr. Collier.

8.

The school taxes that are levied against Mr. Collier annually and the school taxes that he pays are only supposed to be used to operate and maintain the School District's public school system.

9.

Dr. Romain Dallemand ("Dr. Dallemand") is the School District's Superintendent of Schools.

10.

Mr. Collier is employed by the School District.

11.

Mr. Collier was employed as the School District's Chief Financial Officer until December 10, 2012.

On December 10, 2012, the School District, by and through Dr. Dallemand, assigned Mr. Collier to the position of "administrator on special assignment."

13.

On December 20, 2012, the School District, by and through the Board of Education which was acting upon Dr. Dallemand's recommendation, assigned Mr. Collier to the position of "director of capital assets and contracts."

14.

Mr. Collier is a "public employee" as that term is defined at O.C.G.A. § 45-1-4(a)(3).

15.

The School District is a "public employer" as that term is defined at O.C.G.A. § 45-1-4(a)(4).

16.

The School District has given Dr. Dallemand authority to direct and control Mr. Collier's work performance.

17.

Dr. Dallemand is Mr. Collier's "supervisor" as that term is defined at O.C.G.A. § 45-1-4(a)(6).

Jurisdiction and Venue

18.

This Honorable Court has jurisdiction over the subject matter of this action.

19.

This Honorable Court has jurisdiction over the person of the School District.

Venue in this action is proper.

Facts

21.

Macon Promise Neighborhood ("MPN") is a cooperative coalition of thirty-five non-profit or governmental partners that includes, but is not limited to, Mercer University, Central Georgia Partnership for Individual and Community Development, Inc. ("CGPICD") and the School District.

22.

Prior to June 27, 2012, MPN developed a plan to leverage grant funding by obtaining an award from the U.S. Department of Education Promise Neighborhood Program ("DOEPN"), a federal public-private partnership concept aimed at reversing the cycle of intergenerational poverty through education in twenty (20) neighborhoods across the United States.

23.

DOEPN provides up to \$5,000,000.00 annually beginning in 2013 for each participating Promise Neighborhood, contingent upon each awarded community being able to demonstrate matching funds equal to DOEPN grant awards on a "dollar-for-dollar" basis.

24.

The required DOEPN fund match requirement can be met through demonstration of reallocation of existing programs, resources and in-kind contributions up to 90% of the annual DOEPN grant amount and can be provided over multiple years.

Prior to June 27, 2012, MPN made plans to submit an application for a Promise

Neighborhood Implementation Grant ("the Grant") to DOEPN. According to the plans, Mercer

University was to be the Grant applicant and Mercer University was to administer the Grant as

fiscal agent and oversee all Grant activities.

26.

The deadline for submitting the Grant application was July 27, 2012 and the application had to include detailed descriptions for commitments and agreements for resources and programs which would serve as the in-kind and dollar-for-dollar match requirements.

27.

Prior to June 27, 2012, MPN had previously identified Ingram-Pye Elementary School ("Ingram-Pye"), Matilda Hartley ("Hartley") Elementary School, Ballard-Hudson Middle School ("Ballard") and Southwest High School ("Southwest") as the targeted neighborhood for the DOEPN and MPN program services and to serve as Macon's First Promise Neighborhood.

28.

On June 27, 2012, the Board of Education adopted a resolution (the "Resolution") in which it consented and agreed to the inclusion of its

programs, resources, current-budgeted funds, and related in-kind contributions (the "Resources") for the purposes of supporting the MPN initiative and act as matching requirements for the DOEPN grant. [The Resources were to] be aligned and allocated from the operations, curriculum, and programs of Ingram-Pye, Hartley, Ballard and Southwest in amounts not exceed \$250,000.00 per school, per year.

A true and correct copy of the Resolution is attached hereto as Exhibit "A".

30.

On or about July 17, 2012, Dr. Dallemand delivered to Mr. Collier a \$1,000,000.00 invoice ("Invoice I") from CGPICD. Invoice I was issued to "Macon Children's Promise Neighborhood, Mercer University" and, according to Invoice I, it was for "2012 Macon Children's Promise Neighborhood contribution for PICD." Invoice I also provided that it was due "upon receipt".

31.

A true and correct copy of Invoice I is attached hereto as Exhibit "B."

32.

After delivering Invoice I to Mr. Collier, Dr. Dallemand instructed Mr. Collier to have Invoice I paid from the School District's funds.

33.

Mr. Collier had concerns about Invoice I and had reasonable cause to believe payment of Invoice I was in violation of or noncompliance with a law, rule, or regulation. Mr. Collier therefore decided that he needed to obtain more information about Invoice I before he paid it. As a result, Mr. Collier did not pay Invoice I.

34.

On July 19, 2012, Dr. Dallemand went to Mr. Collier's office and asked him if Invoice I had been paid. Dr. Dallemand indicated in that meeting that the President of Mercer University was looking at Dr. Dallemand as if Dr. Dallemand was trying to renege on the deal. Dr. Dallemand told Mr. Collier to contact Jimmie Samuel, the President of CGPICD if he had any

questions about Invoice I. Mr. Samuel, however, called Mr. Collier before Mr. Collier had a chance to call him. Mr. Samuel was unable to satisfactorily respond to Mr. Collier's concerns.

35.

Mr. Collier knew that the School District's Director of Accounting had worked with Dr.

Peter Brown of Mercer University on issues relating to the Grant. Therefore, Mr. Collier contacted the School District's Director of Accounting to see if she could provide any information about Invoice I. Not having any information about Invoice I, the School District's Director of Accounting e-mailed a copy of Invoice I to Dr. Brown. The School District's Director of Accounting told Mr. Collier that Dr. Brown said that he did not know anything about Invoice I.

36.

On the morning of July 20, 2012, Dr. Dallemand telephoned Mr. Collier at home before Mr. Collier left to go to work. During that telephone call, Dr. Dallemand expressed that he was upset that the School District's Director of Accounting had contacted Dr. Brown Invoice I. Dr. Dallemand told Mr. Collier that Mr. Collier was making Dr. Dallemand "look bad" and that Dr. Dallemand was "disappointed" in Mr. Collier. Dr. Dallemand also told Mr. Collier that the President of the Board of Education wanted to know why Invoice I had not been paid and asked Mr. Collier whether Dr. Dallemand needed to get another Chief Financial Officer to write the check. During the July 20, 2012 telephone call, Mr. Collier told Dr. Dallemand that Dr. Dallemand should approve the payment of the Invoice I. Dr. Dallemand, however, refused to do so. Dr. Dallemand told Mr. Collier that Mr. Collier had better process a check for the payment of Invoice I by noon on July 20, 2012. Mr. Collier, however, still had concerns about Invoice I

and had reasonable cause to believe that paying Invoice I was in violation of or noncompliance with a law, rule, or regulation. As a result, Mr. Collier did not pay Invoice I.

37.

On July 25, 2012, Ebony Harris, the MPN's Project Director, e-mailed a message to Mr. Collier at 11:55 a.m. That message stated the following:

Mr. Collier,

I was asked by Mr. Cliffard Whitby Macon Promise Neighborhood, Executive Director and Mr. Jimmie Samuel Partnership for Individual and Community Development, President to forward a copy of the attached invoice to you. Please note that Mr. Samuel is out of town until tomorrow. If you have any question regarding this Invoice please contact Mr. Whitby at 478-256-6122.

Thanks Ebony Harris, Project Director Macon Promise Neighborhood

38.

A true and correct copy of the message Ms. Harris e-mailed to Mr. Collier on July 25, 2012 at 11:55 a.m. is attached hereto as Exhibit "C". A true and correct copy of the invoice ("Invoice II") attached to the message Ms. Harris e-mailed to Mr. Collier on July 25, 2012 at 11:55 a.m. is attached hereto as Exhibit "D".

39.

Like Invoice I, Invoice II was an invoice for \$1,000,000.00 from CGPICD and it was due "upon receipt." Unlike I, Invoice II was issued to the "Bibb County Board of Education" and, according to Invoice II, it was for "School System 2012 contribution for Macon Children's Promise Neighborhood match Commitment." According to Invoice II, the School District was to make payment in the amount of \$1,000,000.00 to "Central Georgia Partnership for Individual & Community Development."

Just a few hours after Ms. Harris e-mailed her message and Invoice II to Mr. Collier, Dr. Dallemand delivered a letter to Mr. Collier. The letter was delivered to Mr. Collier on July 25. 2012 at 5:55 p.m. In his letter, Dr. Dallemand directed Mr. Collier to prepare a \$1,000,000.00 "check or wire transfer (as CGPICD may direct) ... to CGIPD". Dr. Dallemand further directed Mr. Collier "to have this check or wire transfer authorization ... to me no later than 5:00 p.m. on Thursday, July 26, 2012."

41.

A true and correct copy of the letter Dr. Dallemand delivered to Mr. Collier on July 25, 2012 at 5:55 p.m. is attached hereto as Exhibit "E."

42.

On July 26, 2012¹, Mr. Collier delivered a letter to Dr. Dallemand in response to the letter Dr. Dallemand delivered to Mr. Collier on July 25, 2012. In his July 26, 2012 letter, Mr. Collier told Dr. Dallemand that he could not "in good conscience write the check" as Dr. Dallemand had instructed him to do because he believed it would violate "Georgia Laws, Rules and Regulations as well as The State Board of Education Rules and Regulations."

43.

A true and correct copy of Mr. Collier's July 26, 2012 written response to the letter Dr. Dallemand gave Mr. Collier on July 25, 2012 letter is attached hereto as Exhibit "F."

44.

On July 31, 2012, Mr. Collier was summoned to Dr. Dallemand's office for a meeting with Dr. Dallemand and the School District's in-house attorney about the payment to CGPICD. The Board of Education's attorney participated in the meeting by conference call. After that

¹ Mr. Collier's letter is mistakenly dated July 27, 2012.

meeting, Mr. Collier received a letter from Dr. Dallemand dated August 3, 2012. A true and correct copy of that letter is attached hereto as Exhibit "G". After receiving Dr. Dallemand's August 3, 2012 letter, Mr. Collier was excluded from all discussions regarding payment to CGPICD until after the Board of Education's October 18, 2012 meeting.

45.

On June 5, 2009, the School District sold the old Ballard-Hudson Middle School building and property on Anthony Road to CGPICD for \$220,000.00.

46.

On July 27, 2012, the day after Mr. Collier informed Dr. Dallemand that he could not "in good conscience write the check" for \$1,000,000.00 to CGPICD, the President of the Board of Education, purportedly acting on behalf of the School District, signed a Lease Agreement ("the Lease Agreement") that purports to require the School District to lease a portion of the old Ballard-Hudson Middle School building ("the Building") from CGPICD for ten (10) years.

47.

According to the terms of the Lease Agreement, CGPICD agreed to lease to the School District a "White Box Shell" consisting of approximately one-half of the Building. In turn, the President of the Board of Education purportedly obligated the School District to

- (a) pay rent to CGPICD for ten (10) years in the amount of \$575,000.00 annually in equal monthly installments of \$47,916.67;
- (b) be responsible for ten (10) years for the cost of any improvements or modifications required by the School District's intended use of the part of the Building it purportedly leased;

- (c) for ten (10) years, pay and be responsible for all water, gas, electricity, heat, light, power, telephone, sewer, sprinkler, refuse and trash collection, and other utilities and services used in the part of the Building the School District purportedly leased;
- (d) keep, maintain and repair in good order and condition for ten (10) years the lighting and plumbing fixtures, interior walls, flooring, and windows in the part of the Building the School District purportedly leased;
- (e) keep the part of the Building the School District purportedly leased adequately insured for ten (10) years; and
- (f) take other actions and do other things for ten (10) years.

48.

A true and correct copy of the Lease Agreement is attached hereto as Exhibit "H."

49.

According to the terms of the Lease Agreement, the School District has purportedly undertaken an obligation that extends beyond a single fiscal year.

50.

A majority of the voters of Bibb County voting in an election held for that purpose have not assented to the obligations purportedly undertaken by the School District according to the terms of the Lease Agreement.

51.

The obligations the School District purportedly incurred under the Lease Agreement were not to be discharged by money already in the School District's treasury or by taxes levied during the year in which the Lease Agreement was made.

The School District's current budget has not allocated funds to pay entire value of the obligations purportedly created by the Lease Agreement.

53.

The Lease Agreement does not contain a provision that it will terminate absolutely and without further obligation on the part of the School District at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed as provided in O.C.G.A. § 20-2-506.

54.

The Lease Agreement does not state the total obligation of the School District under the Lease Agreement for the calendar year of execution nor does it further state the total obligation which will be incurred in each calendar year renewal term, if renewed.

55.

Even though he was the School District's Chief Financial Officer at the time Lease Agreement was executed, Mr. Collier knew nothing about the Lease Agreement until after the Board of Education met on October 18, 2012.

56.

On October 18, 2012 the Board of Education met and entered into a Memorandum of Understanding with CGIPCD. The following day, Dr. Dallemand's secretary delivered another invoice ("Invoice III") to Mr. Collier for payment in the amount of \$1,000,000.00 to CGIPCD. A true and correct copy of Invoice III is attached hereto as Exhibit "I." After Mr. Collier advised the Board of Education's attorney and Dr. Dallemand that best accounting practices suggested that the School District require an annual financial audit on CGPICD's accounting books

performed by an independent CPA firm, the Board of Education's attorney delivered yet another invoice ("Invoice IV") to Mr. Collier for payment in the amount of \$1,000,000.00 to CGIPCD.

A true and correct copy of Invoice IV is attached hereto as Exhbit "J." The Board of Education's attorneys having approved the matter, Mr. Collier processed Invoice IV for payment.

57.

On December 3, 2012, the Board of Education offered Dr. Dallemand a new employment contract. On Friday, December 7, 2012, Dr. Dallemand accepted the Board of Education's offer. Just three days later, on Monday December 10, 2012, Dr. Dallemand delivered Mr. Collier a letter advising him that "effective immediately, you are an administrator on special assignment pending an investigation into practices within your department."

58.

A true and correct copy of Dr. Dallemand's December 10, 2012 letter to Mr. Collier is attached hereto as Exhibit "K."

59.

Mr. Collier did not assent to his assignment to the position of "administrator on special assignment."

60.

Upon being given Dr. Dallemand's December 10, 2012 letter, Mr. Collier was required to remove his personal belongings from his office. Mr. Collier was also required to give his keys and telephone to the School District's Deputy Superintendent of Operations and he was forced to leave the School District's offices by 3:00 p.m. on December 10, 2012.

On December 11, 2012, Mr. Collier was required to report to the School District's warehouse.

62.

Upon reporting to the School District's warehouse on December 11, 2012, Mr. Collier was placed in a room in the rear of the warehouse.

63.

While at work in the warehouse, Mr. Collier was isolated from everyone. Mr. Collier did not have access to a working computer while he was assigned to the warehouse. He was only allowed to work on matters that were hand delivered to him by the Deputy Superintendent of Operations. When he completed the work delivered to him, he was required to sit idle, alone and isolated in the room he was assigned in the rear of the District's warehouse.

64.

Mr. Collier commenced this action by filing his Complaint with the Court on December 20, 2012 at 2:34 p.m.

64.

A copy of Mr. Collier's Complaint was hand delivered to the School District's in-house attorney within one (1) hour after it was filed.

65.

Within six (6) hours after Mr. Collier filed his Complaint with the Court on December 21, 2012, the School District, by and through the Board of Education and upon the recommendation of Dr. Dallemand, assigned Mr. Collier to the position of "director of capital"

assets and contracts." The Board of Education made the assignment without any discussion among its members.

66.

Mr. Collier did not assent to his assignment to the position of "director of capital assets and contracts."

67.

Neither Dr. Dallemand, any member of the Board of Education nor any other official or representative of the School District told Mr. Collier that he was being assigned to the position of "director of capital assets and contracts." Mr. Collier learned of the assignment from a newspaper reporter.

68.

Mr. Collier's workplace remained in the rear of the School District's warehouse even after his assignment to the position "director of capital assets and contracts." After three (3) working days, the School District's Deputy Superintendent of Operations escorted Mr. Collier to a new workplace in the School District's offices at 484 Mulberry Street, Macon, Georgia.

69.

As noted above, Mr. Collier was assigned to the position of administrator on special assignment "pending an investigation into practices within [his] department." Although the School District has reported that the "investigation" has been completed, Mr. Collier has not been advised of the results of the investigation. Further, the School District's in-house attorney has stated publicly that the School District is not aware of any reports, notes or summaries relating to the investigation.

The School District's December 10, 2012 assignment of Mr. Collier from the position of Chief Financial Officer to the position of "administrator on special assignment" with the attendant working conditions Mr. Collier was subjected to as a result of that assignment constitutes adverse employment action.

71.

The School District, by and through Dr. Dallemand, took the adverse employment action described in the preceding paragraph against Mr. Collier in retaliation for Mr. Collier objecting to and refusing to participate in an activity of the School District that Mr. Collier had reasonable cause to believe was in violation of or noncompliance with a law, rule, or regulation.

72.

The School District's December 20, 2012 assignment of Mr. Collier to the position of "director of capital assets and contracts" with the attendant working conditions Mr. Collier was and continues to be subjected to as a result of that assignment constitutes adverse employment action.

73.

The School District, by and through the Board of Education and upon the recommendation of Dr. Dallemand, took the adverse employment action described in the preceding paragraph against Mr. Collier in retaliation for Mr. Collier objecting to and refusing to participate in an activity of the School District that Mr. Collier had reasonable cause to believe was in violation of or noncompliance with a law, rule, or regulation.

Mr. Collier has experienced mental anguish, humiliation and embarrassment as a direct and proximate result of the retaliatory actions taken by the School District. Additionally, Mr. Collier's personal and professional reputation and credibility have been harmed.

75.

Mr. Collier has incurred attorney's fees, court costs, and other expenses in the prosecution of this action.

Causes of Action

Damages for Violation of Georgia's Whistleblower Law

76.

Mr. Collier adopts and incorporates herein by reference each and every allegation contained in paragraphs 1-75 above.

77.

Under Georgia's Whistleblower Law, no public employer shall retaliate against a public employee for objecting to, or refusing to participate in, any activity, policy, or practice that the public employee has reasonable cause to believe to be in violation of or noncompliance with a law, rule, or regulation.

78.

The School District, by and through Dr. Dallemand, assigned Mr. Collier from the position of Chief Financial Officer to the position of "administrator on special assignment" in retaliation for Mr. Collier objecting to and refusing to participate in an activity of the School District that Mr. Collier had reasonable cause to believe was in violation of or noncompliance with a law, rule, or regulation.

The School District, by and through the Board of Education and upon the recommendation of Dr. Dallemand, assigned Mr. Collier to the position of "director of capital assets and contracts" in retaliation for Mr. Collier objecting to and refusing to participate in an activity of the School District that Mr. Collier had reasonable cause to believe was in violation of or noncompliance with a law, rule, or regulation.

80.

Mr. Collier is entitled to the following relief pursuant to O.C.G.A. § 45-1-4 as a result of the retaliatory actions taken by the School District against him:

- (a) Reinstatement to the position of Chief Financial Officer;
- (b) Damages to compensate Mr. Collier for his mental anguish, humiliation and embarrassment and for the injuries he has sustained to his personal and professional reputation and credibility;
 - (c) Reasonable attorney's fees, court costs and expenses.

Declaratory Relief in Relation to the Lease Agreement

81.

Mr. Collier adopts and incorporates herein by reference each and every allegation contained in paragraphs 1-80 above.

82.

Mr. Collier, as a citizen of Bibb County, a Bibb County property owner, a Bibb County school taxpayer and the parent of a child attending the Bibb County Public Schools has standing to challenge a contract such as the Lease Agreement that could result in the unconstitutional and illegal expenditure of school taxpayer funds.

An actual controversy exists with respect to the constitutionality and legality of the Lease Agreement.

84.

The School District is a political subdivision of the State of Georgia.

85.

The Georgia Constitution provides that no political subdivision of the state such as the School District "shall incur any new debt without the assent of a majority of the qualified voters ... voting in an election held for that purpose as provided by law." Ga. Constition 1983, Art. IX, Sec. V., Par. I(a).

86.

The Lease Agreement constitutes "new debt" within the meaning of the Georgia Constitution because, according to the terms of the Lease Agreement, the School District has purportedly undertaken an obligation that extends beyond a single fiscal year.

87.

A majority of the voters of Bibb County voting in an election held for that purpose have not assented to the obligations purportedly undertaken by the School District under the terms of the Lease Agreement.

88.

The obligations the School District purportedly incurred under the Lease Agreement were not to be discharged by money already in the School District's treasury or by taxes levied during the year in which the Lease Agreement was made. Further, the School District's current

budget has not allocated funds to pay entire value of the School District's obligations purportedly created by the Lease Agreement.

89.

Under O.C.G.A. § 20-2-506(b), a school system in Georgia is authorized to enter into a multiyear lease of real property provided that the lease contains provisions for the following:

- (a) The lease shall terminate absolutely and without further obligation on the part of the school system at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed; and
- (b) The lease shall state the total obligation of the school system for the calendar year of execution and shall further state the total obligation which will be incurred in each calendar year renewal term.

90.

The Lease Agreement does not contain any provisions that it shall terminate absolutely and without further obligation on the part of the School District at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed.

91.

The Lease Agreement does not state the total obligation of the School District for the calendar year of execution nor does it state the total obligation which will be incurred in each calendar year renewal term.

92.

The Lease Agreement is void because it violates the Georgia Constitution's prohibition against a political subdivision of the state incurring new debt without the approval of voters.

The Lease Agreement is void because it violates O.C.G.A. § 20-2-506(b).

94.

Mr. Collier is entitled to a judgment

- (i) Declaring that the Lease Agreement is void because it violates the Georgia

 Constitution's prohibition against a political subdivision of the state incurring new debt without the approval of voters and because it violates O.C.G.A. § 20-2-506(b), and
- (ii) Declaring that the School District has no obligation or duty under the terms of the Lease Agreement to
 - (a) pay any rent,
 - (b) pay for any improvements or modifications,
 - (c) pay or be responsible for any utilities or services,
 - (d) keep, maintain or repair anything,
 - (e) purchase or maintain any insurance, or
 - (f) take any other action or do any other thing.

Injunctive Relief in Relation to the Lease Agreement

95.

Mr. Collier adopts and incorporates herein by reference each and every allegation contained in paragraphs 1-94 above.

96.

Mr. Collier does not have an adequate remedy at law with respect to the School District's actions in relation to the Lease Agreement.

Mr. Collier, other Bibb County school taxpayers, other parents of students enrolled in the Bibb County Public Schools, and other Bibb County property owners will suffer irreparable harm if the School District is not enjoined from taking action with respect to Lease Agreement.

98.

Mr. Collier is entitled to temporary, interlocutory and permanent relief restraining and enjoining the Schools District from

- (a) paying any rent pursuant to the Lease Agreement;
- (b) paying for any improvements or modifications pursuant to the Lease

 Agreement;
- (c) paying or being responsible for any utilities or services pursuant to the Lease Agreement;
- (d) keeping, maintaining or repairing anything pursuant to the Lease

 Agreement;
- (e) purchasing or maintaining any insurance pursuant to the Lease

 Agreement; and,
- (f) taking any other action or doing any other thing pursuant to the Lease Agreement.

Prayer for Relief

WHEREFORE, Mr. Collier respectfully requests the following relief:

- (a) The issuance of process as to the School District;
- (b) A trial by jury as to all issues so triable;

- (c) Temporary and interlocutory relief restraining and enjoining the School District from
 - (i) paying any rent pursuant to the Lease Agreement;
 - (ii) paying for any improvements or modifications pursuant to the Lease

 Agreement;
 - (iii) paying or being responsible for any utilities or services pursuant to the Lease Agreement;
 - (iv) keeping, maintaining or repairing anything pursuant to the Lease

 Agreement;
 - (v) purchasing or maintaining any insurance pursuant to the LeaseAgreement; and,
 - (vi) taking any other action or doing any other thing pursuant to the LeaseAgreement;
- (d) The entry of Judgment in favor of Mr. Collier and against the School District that includes:
 - (i) Reinstatement of Mr. Collier to the position of Chief Financial Officer;
 - (ii) Damages to compensate Mr. Collier for his mental anguish, humiliation and embarrassment;
 - (iii) Reasonable attorney's fees, court costs and expenses, and
 - (iv) Permanent relief restraining and enjoining the School District from
 - (A) paying any rent pursuant to the Lease Agreement;
 - (B) paying for any improvements or modifications pursuant to the Lease Agreement;

- (C) paying or being responsible for any utilities or services pursuant to the Lease Agreement;
- (D) keeping, maintaining or repairing anything pursuant to the Lease Agreement;
- (E) purchasing or maintaining any insurance pursuant to the Lease

 Agreement; and,
- (F) taking any other action or doing any other thing pursuant to the Lease Agreement; and
- (d) Such other relief that this Honorable Court deems just, fair, and proper.

Date: January 14, 2013.

Jerny A. Lumley

Georgia Bar No. 460866

Jerry A. Lumley, LLC

Post Office Box 27717

Macon, Georgia 31221

Telephone: (478) 471-1776 Facsimile: (478) 757-0675 Email: jerrylumley@att.net

Attorney for Plaintiff

VERIFICATION

STATE OF GEORGIA BIBB COUNTY

Personally appeared before the undersigned officer duly authorized by law to administer oaths, RON COLLIER, who, having first been duly sworn, deposes and states that the allegations contained in the foregoing FIRST AMENDED COMPLAINT are true and correct.

Date: January 14, 2013.

ON COLLIER

Sworn to, and subscribed before me This 14th day of January, 2013

Notary Public

My Commission Expires: 9-25-13

[SEAL]

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing FIRST AMENDED COMPLAINT upon

Defendant Bibb County School District by hand delivering a copy to Mr. Randy Howard,

Attorney for Defendant Bibb County School District, at 484 Mulberry Street, Macon, Georgia.

Date: January 14, 2013.

A RESOLUTION OF THE BIBB COUNTY BOARD OF EDUCATION APPROVING THE REALLOCATION OF RESOURCES TO PARTNER WITH AND SO AS TO PROVIDE MATCHING RESOURCES FOR THE U.S. DEPARTMENT OF EDUCATION PROMISE NEIGHBORHOODS GRANT PROGRAM FOR MACON PROMISE NEIGHBORHOOD AND PROGRAM PARTNERS; TO AUTHORIZE OTHER LETTERS, COMMITMENTS, AND EXECUTION OF VARIOUS AGREEMENTS WITH VARIOUS ENTITIES TO EFFECTUATE SAID REALLOCATION AND MATCH; AND FOR OTHER PURPOSES

WHEREAS, the Bibb County Board of Education (the "Board of Education") is charged with oversight and provision of public education to the citizens of Macon and Bibb County, Georgia, through its governance of the Bibb County School District; and

WHEREAS, Macon Promise Neighborhood (the "MPN") is a cooperative coalition of thirty-five (35) local non-profit or governmental partners (including but not limited to, Mercer University, City of Macon, Bibb County, Peyton Anderson Foundation, Central Georgia Partnership for Individual and Community Development, Inc., Central Georgia Technical College, Macon Housing Authority, and Macon-Bibb County Equal Opportunity Council, Inc.), which has developed a plan to leverage grant funding to support education and reduce poverty in Macon and Bibb County by obtaining an award from U.S. Department of Education Promise Neighborhood Program (the "DOEPN"), a federal public-private partnership concept aimed at reversing the cycle of intergenerational poverty through education in twenty (20) neighborhoods across the United States; the sites for the twenty Promise Neighborhoods will be selected by the federal government based on applications submitted by cities in partnership with service organizations and school districts; and

WHEREAS, the DOEPN provides up to \$5 million annually beginning in 2013 for each participating Promise Neighborhood, contingent upon each awarded community being able to demonstrate matching funds equal to DOEPN grant awards on a "dollar-for-dollar" basis; and

WHEREAS, the required DOEPN fund match requirement can be met through demonstration of reallocation of existing programs, resources and in-kind contributions up to ninety percent (90%) of the annual DOEPN grant amount and can be provided over multiple years; and

WHEREAS, the MPN has identified in its earlier eligible DOEPN grant the Macon neighborhood served by Ingram-Pye Elementary School ("Ingram-Pye"), Matilda Hartley ("Hartley") Elementary School, Ballard-Hudson Middle School ("Ballard"), and Southwest High School ("Southwest") as the targeted neighborhood for DOEPN and MPN program services and to serve as Macon's First Promise Neighborhood; and MPN has also identified the facility at 1780 Anthony Road, Macon, Georgia as the preferred location to house MPN, its programs and allocated or realigned resources to serve this targeted neighborhood; and

WHEREAS, the submission deadline for MPN's Promise Neighborhood Implementation Grant application to the DOEPN is July 27, 2012, and said application must include detailed descriptions of commitments and agreements for resources and programs which will serve as the in-kind and dollar-for-dollar match requirements; and



WHEREAS, the Board of Education supports MPN's goals and its application to obtain a recurring, annual DOEPN Program Implementation Grant; and the Board of Education desires to become a partner in the Macon Promise Neighborhood Program, to reallocate and realign current resources of the Board of Education to assist MPN in demonstrating required matching funds for the grant, and to authorize the Superintendent and staff of the Board of Education to identify, realign and reallocate Board of Education resources; and

WHEREAS, the Board of Education is authorized to contract with non-profit entities of public charity in order to provide for the education of citizens of Macon and Bibb County, and thereby, the Board of Education wishes to provide for the Superintendent, with the written concurrence and approval of the Board of Education, to execute such letters, commitments and agreements as may be required in order to reallocate resources in such a way as those resources can be counted toward the required matching funds for MPN's application for the DOEPN Implementation Grant,

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of Bibb County as follows:

Section 1. The Board of Education hereby consents and agrees to the inclusion of its programs, resources, current-budgeted funds, and related in-kind contributions (the "Resources") for the purposes of supporting the MPN initiative and act as matching requirements for the DOEPN grant. Said Resources shall be realigned and allocated from the operations, curriculum, and programs of Ingram-Pye, Hartley, Ballard and Southwest, in amounts not to exceed \$250,000.00 per school, per year (the "Resources Commitment Amounts").

Section 2. The President of the Bibb County Board of Education, or in the absence of the Chairman, the Vice-President, together concurrently with the Superintendent, are hereby authorized and directed to identify the Resources to be realigned and reallocated to support the MPN initiative, its partners, and DOEPN application for Implementation Grant and execute such letters, commitments, applications, leases, contracts, or agreements on behalf of the Board of Education in furtherance of the Board of Education's support of MPN's initiatives, partners, and implementation grant; provided, however, that no such documents shall act to bind the Board of Education beyond those Resources Commitment Amounts identified in Section 1 or beyond the life of the DOEPN Program, or December 31, 2023, whichever is later.

Section 3. This resolution shall be effective immediately upon its adoption.

Adopted this 27 day of June, 2012.

BIBB COUNTY BOARD OF EDUCATION

WILLIAM THOMAS BARNES, III, President

Attest:

LYNN FARMER, Secretary

SEAL

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Bibb County Board of Education (the "Board"), Georgia, DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the Resolution adopted by the Board at an open public meeting duly called and lawfully assembled on the 21st day of June, 2012, at which a quorum was present, the original of such Resolution being duly recorded in the Minute Book of the Board, which Minute Book is in my custody and control. I do hereby further certify that such Resolution was duly adopted by a vote of

Aye: 8 Nay 6 Absent or did not vote...

WITNESS my hand and the official seal of the Board this 27 day of June, 2012.

YNN FARMER, Secretar

(SEAL)

Central Georgia
Partnership for Individual & Community Development
ATTENTION: Jimmie Samuel
653 Second Street
Macon, GA 31201

Macon Children's Promise Neighborhood Mercer University 1400 Coleman Avenue Macon, GA 31207



Partnership for Individual & Community Development

Invoice # 201207-13

Invoice

Date 7/13/2012

Due Date UPON RECEIPT

ltenis	Of 12 Description 2012 Macon Children's Promise	egyfa Dinii Praced Pour	antity Amount
Expense	Neighborhood contribution for PICD	\$ 1,000,000.00	1 \$ 1,000,000.00
1 1/4	e z z		,
		Subtotal	\$1,000,000.00
	ii v		•
		Total	\$1,000,000.00
		Amount Paid	A A A A A A A A A A A A A A A A A A A
		Balance Due	\$1,000,000.00

James Amue Board President



Ron Collier - PICD Invoive

From:

"Ebony L. Harris" < harris_el@mercer.edu>

To:

"rcollier@bibb.k12.ga.us" <rcollier@bibb.k12.ga.us>

Date:

7/25/2012 11:55 AM

Subject:

PICD Invoive

CC:

"Cliffard D. Whitby" <whitby_cd@mercer.edu>, 'Jimmie Samuel'

<jsamuel@maconbibbeoc.com>

Attachments: PICD_Invoice BCSS[3].pdf

Mr. Collier,

I was asked by Mr. Cliffard Whitby Macon Promise Neighborhood, Executive Director and Mr. Jimmie Samuel Partnership for Individual and Community Development, President to forward a copy of the attached invoice to you. Please note that Mr. Samuel is out of town until tomorrow. If you have any question regarding this invoice please contact Mr. Whitby at 478-256-6122.

Thanks, Ebony Harris, Project Director Macon Promise Neighborhood



Bibb County Board Of Education 484 Mulberry St. Macon, Ga. 31201

ATTENTION:

Superintendent Dallemand



Partnership for Individual & Community Development

Central Georgia
Partnership for Individual & Community Development
ATTENTION: Jimmie Samuel
653 Second Street
Macon, GA 31201

Invoice #

201207-13

Invoice

Date

7/13/2012

Due Date

UPON RECEIPT

[ប្រាក	Description .	પતાલસંતલ ભારતિ	Gy/ Απουίτι ». <u>.</u>
Expense	School System 2012 contribution for Macon Children's Promise Neighborhood match Commitment.	\$ 1,000,000.00	1 \$ 1,000,000.00
Make Payable to Central Georgia		Subtotal	\$1,000,000.00
Partnership for Individual & Community Development		Total	\$1,000,000.00
		Amount Paid Balance Due:	\$1,000,000:00

Board President Jimmie Samuel





Arrength of Character and Callege Ready

Mr. Ron Collier Chief Financial Officer Bibb County School District 484 Mulberry Street, 4th Floor Macon, Georgia, 30201



RE: Invoice from Central Georgia Partnership for Individual and Community Development on behalf of the Macon Promise Neighborhoods Grant

Dear Ron:

As you are aware, on June 21, 2012, the Board passed a Resolution in support of the Macon Promise Neighborhood ("MPN") initiative, entitled:

A RESOLUTION OF THE BIBB COUNTY BOARD OF EDUCATION APPROVING THE REALLOCATION OF RESOURCES TO PARTNER WITH AND SO AS TO PROVIDE MATCHING RESOURCES FOR THE U.S. DEPARTMENT OF EDUCATION PROMISE NEIGHBORHOODS GRANT PROGRAM FOR MACON PROMISE NEIGHBORHOOD AND ITS OTHER PROGRAM PARTNERS . . . "

June 21, 2012 Resolution, title (emphasis added).

The body of the Resolution makes clear what the Resolution's title summarizes: that the Board directs and authorizes me, to "identify the Resources to be realigned and reallocated to support the MPN initiative, its partners, and . . . execute such letters, commitments, applications, leases, contracts, or agreements on behalf of the Board of Education in furtherance of the Board of Education's support of MPN's initiatives, partners, and implantation grant." June 21, 2012 Resolution, paragraph 2. The Resolution also states that the Board authorized "the inclusion of its programs, resources, current-budgeted funds, and related in-kind contributions (the "Resources") for the purposes of supporting the MPN initiative." June 21, 2012 Resolution, paragraph 1.

The Resolution directed that the Superintendent "identify, realign and reallocate Board of Education resources" from Ingram-Pye Elementary School ("Ingram-Pye"), Matilda Hartley Elementary School ("Hartley"), Ballard-Hudson Middle School ("Ballard"), and Southwest High School ("Southwest") in an amount not exceed \$250,000 out of current budgeted funds." June 21, 2012 Resolution, page 1. The staff and I have reviewed the operations of each of these schools and identified the resources to be reallocated from each for the full \$250,000, the combined resources to serve as demonstrated match under the Promise Neighborhoods Implementation Grant for a total of \$1,000,000. The remaining step to be completed per the Resolution is the review and

approval of the reallocation by the Board President and me, along with required action thereafter.

We have received an invoice from Central Georgia Partnership for Individual and Community Development ("CGPICD"), named partner of MPN in the Resolution and owner of the facility at 1780 Anthony Road, Macon, Georgia were the MPN programs will be housed, for \$1,000,000. The MPN application for the U.S. Department of Education Promise Neighborhoods Implementation Grant, as fully endorsed by the Board, must be submitted by July 27, 2012, together with evidence of receipt of all demonstrated local match funds.

As directed and required by me by the action of the Board in adopting the Resolution, and pursuant to the reallocation prepared by staff of current-budgeted funds from each of the budgets approved for FY 2012 for Ingram-Pye, Hartley Elementary School, Ballard-Hudson Middle School, and Southwest High School, I hereby direct you to prepare a check or wire transfer (as CGPICD may direct) to the School District to CGPICD along with the demonstrated reallocation of school budget showing the source of funds immediately for review and signature by the President of the Board and me. You are directed to have this check or wire transfer authorization and requested current-budgeted funds reallocation to me no later than 5:00 p.m. on Thursday, July 26, 2012.

Please confirm your receipt of this letter by so signing and indicating the date and time of receipt in the space provided below.

Your urgent attention to this matter is greatly appreciated.

Sincerely >

Romain Dallemand, Ed.D.

Superintendent

Received by Ron Collier:

Date Received: \(\square\)

July 25, 2012

Time Received: 5:55



Strength of Character and College Ready

July 27, 2012

Dr. Romain Dallemand Superintendent Bibb County School District 484 Mulberry Street, Macon, Georgia



Reference: Macon Promise Neighborhood

My support of you and your vision has been unwavering since your arrival to the district. During the last few days, I have been accused of insubordination on more than one occasion. You've even gone so far as to tell me that "you will find another CFO" to write the check. In the face of all of that, I have tried to convey my support of your vision and have stressed that I too, want to be a part of "The Macon Miracle". I have provided suggestions that I believe adequately express my commitment to finding a way to "get it done" as you have instructed. I have reviewed the Resolution and understand the Board of Education's commitment to support the Promise Neighborhood and its various partners. As CFO, my charge is to safeguard the districts assets. I am required to do due diligence. Yet I feel, after reading your letter dated on July 26, 2012, as if I am being threatened for doing my job. After consulting with an attorney and pursuant to Georgia Whistleblower Act, I cannot in good conscience write the check to a Partner of the Macon Promise Neighborhood, The Central Georgia Partnership for Individual and Community Development, Inc for \$1,000,000.00 TODAY and deliver it to you by 5:00 pm as I believe that it violates Georgia Laws, Rules and Regulations as well as The State Board of Education Rules and Regulation. That being said, my recommendation is as follows:

The District should write a letter of commitment to be submitted with the grant proposal on July 27th, 2012. This will be in keeping with the Board Resolution instructing you to "write letters, to enter into agreements and execute leases and other contracts." By doing so we (1) assure the Macon Promise Neighborhood Organization that the District's commitment is still firm and (2) It complies with the Promise Neighborhood Grant Application requirements. "......please note that, in Section B, an applicant should show the funds or in-kind donations it proposes to use to meet the matching requirement as well as any other non-Federal funds or in-kind donations that it proposes to use to support its Promise Neighborhoods project. An applicant need not have secured matching funds or in-kind donations in order to show those funds or donations in Section B"... Promise Neighborhood Budget

Narrative Instructions. (3) It will allow us the necessary time to do the due diligence that is required of us as good stewards of taxpayer's money and get a definitive answer that there are no Laws, Rules or Regulations being violated. (4) It will also allow us to avoid a question cost in our annual financial audit. If it is determined that we've handled this match incorrectly, it would not only be a questioned cost in the District's audit it would also be an unallowable match for the Promise Neighborhood Initiative.

(Questioned cost means a cost that is questioned by the auditor

- (1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of the District funds, including funds used to match Federal funds;
- (2) Where the costs, at the time of the audit, are not supported by adequate documentation; or
- (3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances
- A. I also recommend that we consult with our external auditors, other School Districts and/ or The State of Georgia Education professionals to ensure that we are not in violation of Georgia State Laws as it relates to the use of public funds.

Your vision is extraordinary and the mission of the Promise Neighborhood revolutionary. I want to see the educational climate of Macon and Bibb County move ahead. However, I don't want to break any laws in the process, and at this point I believe this is a violation. I am asking for more time to review the issue so that an informed decision can be made.

Ron Collier, CPA

Chief Financial Officer

Bibb County School District



August 3, 2012

Ron Collier Chief Financial Officer 484 Mulberry Street Macon GA 31201

Re: Resolution/Macon Promise Neighborhood

Dear Mr. Collier:

This letter comes to acknowledge receipt of your letter dated July 27, 2012 in regards to the resolution approved by the Bibb County Board of Education on June 21, 2012. Due to your concerns and interpretation of the resolution, and after having a conversation about the resolution with board attorney, Patrick Milsaps, I have forwarded the resolution, your letter dated July 27, 2012, and other supporting documents related to Macon Promise Neighborhood, to Mr. Milsaps for further clarification and interpretation of my authority and the President of Bibb County Board of Education pursuant to this resolution.

I am hopeful that we will have an answer from Mr. Milsaps in the next several days. As soon as I hear from Mr. Milsaps, I will notify you accordingly.

In the meantime, as we wait on the response from Mr. Milsap, please feel free to call me if you have any further questions or concerns about the resolution.

Sincerely,

Dr. Romain Dallemand, Ed. D. Superintendent of Schools



LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease"), is made and entered into this 27th day of July, 2012, by and between CENTRAL GEORGIA PARTNERSHIP FOR INDIVIDUAL AND COMMUNITY DEVELOPMENT, INC., a Georgia non-profit corporation ("Landlord"), and the BIBB COUNTY SCHOOL DISTRICT, a school district and political subdivision organized and existing under the laws of the State of Georgia ("Tenant").

WITNESSETH:

WHEREAS, Landlord is a Georgia non-profit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), which is exempt from federal income taxation under Section 501(a) of the Code, and which is not a "private foundation" within the meaning of Section 509(a) of the Code; and

WHEREAS, Tenant is a school district and a political subdivision organized and existing under the laws of the State of Georgia; and

WHEREAS, the Board of Public Education for Bibb County (the "Board of Education") is charged with oversight and provision of public education to the citizens of Macon and Bibb County, Georgia through its governance of Tenant, and is authorized to contract with non-profit entities of public charity in order to provide for the education of citizens of Macon and Bibb County; and

WHEREAS, consistent with its public purpose, the Board of Education has determined to identify, realign and reallocate Board of Education resources to support the Macon Promise Neighborhood ("MPN"), a cooperative coalition of thirty-five (35) local non-profit or governmental partners (including, but not limited to, Mercer University, City of Macon, Bibb County, Peyton Anderson Foundation, Central Georgia Partnership for Individual and Community Development, Inc., Central Georgia Technical College, Macon Housing Authority, and Macon-Bibb County Equal Opportunity Council, Inc.), which has developed a plan to leverage grant funding to support education and reduce poverty in Macon and Bibb County by obtaining an award from U.S. Department of Education Promise Neighborhood Program (the "DOEPN"); and

WHEREAS, Landlord owns an office and classroom building containing approximately 100,000 square feet, located at 1780 Anthony Road, Macon Georgia 31204 and more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, in furtherance of its support for MPN, Tenant, acting by and through the Board of Education, has determined to lease a portion of the Property (the "Premises") in order to house MPN, its programs and allocated or realigned resources to serve certain targeted neighbors in the City of Macon; and



WHEREAS, Landlord has determined that the lease of the Premises to Tenant for the pursuant to the terms of this Lease would further the exempt purpose of Landlord.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, Landlord and Tenant hereby covenant, agree and bind themselves as follows:

- 1. Premises. Landlord does hereby lease and demise unto Tenant, and Tenant does hereby lease and accept, from Landlord, the "Premises" consisting of a portion of the building and improvements located on the Property and containing approximately 50,000 square feet. Landlord shall make such improvements, modifications, renovations and repairs to the Premises prior to July 1, 2013 so as to provide a "White Box Shell," which for the purposes of this Lease shall mean with clean, commercially acceptable walls, ceilings, flooring, windows, central heating and air conditioning, operable electrical and plumbing fixtures, CAT5 and/or wireless networks, entry areas, and defined parking areas, all of which will be ready for use by Tenant, but may require modifications by Tenant for its intended use of Premises. While it is intended that the White Box Shell will be ready for move in occupancy by Tenant, improvements or modifications required by or incident to Tenant's intended use of the Premises to the White Box Shell provided by Landlord (such as furnishings, accessibility, etc.) will be the sole responsibility and made at the sole cost of Tenant or of Tenant's sublessee.
- 2. <u>Term.</u> The term of this Lease shall commence on the earlier of date of occupancy of the Premises by Tenant or July 1, 2013 (the "Effective Date") and shall end on June 30, 2023 (the "Term").
- 3. Rent. Commencing on April 1, 2013 (the "Rent Commencement Date") and continuing through the Term, Tenant shall pay as its annual rent for the Premises the sum of FIVE HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$575,000.00) per annum, payable in equal monthly installments of FORTY-SEVEN THOUSAND NINE HUNDRED SIXTEEN AND 67/100 DOLLARS (\$47,9116.67) (hereinafter referred to as the "Base Rent"; and collectively with any and all other sums or monetary payments by Tenant to Landlord as the "Rent" or "Rental"). All such monthly installments of Rent shall be payable to Landlord at 1780 Anthony Road, Suite A, Macon, Georgia 31204, or at such other place as Landlord shall designate in writing from time to time, in advance, without previous notice or demand therefor, and without deduction, setoff or abatement except as otherwise provided herein, with each monthly installment to be due and payable on the first day of each and every month following the Rent Commencement Date during the term hereof. If the Rent Commencement Date is a date other than the first day of a month, Base Rent for the period commencing with and including the Rent Commencement Date until the first day of the immediately following month shall be pro-rated at the rate of one-thirtieth (1/30th) per day and shall be payable on the Rent Commencement Date. Failure of the Landlord to provide the Premises in White Box Shell form as of either the Rent Commencement Date or the Effective Date, provided that Landlord has reasonably proceeded to provide the White Box Shell and is unable to do so due partly or solely to reasons beyond its control, shall not delay, abate or reduce the Base Rent. No inability to use or occupy the Premises by Tenant after the Rent

Commencement Date or the Effective Date due to Tenant's required modifications or improvements of the White Box Shell shall abate or reduce Tenant's duty to pay the Base Rent.

Use of Premises. The Premises may be used and occupied by Tenant in order to house MPN programs servicing students, families and neighborhoods for all residents of Bibb County, and particularly those residents served by Ingram-Pye Elementary School, Matilda Hartley Elementary School, Ballard-Hudson Middle School and Southwest High School, and for nontraditional and innovative learning initiatives, including gifted/accelerated, special needs, targeted needs, adult education, community resource consolidation, internet-based learning (for production and hosting of web-based learning), and administrative offices for housing and managing these programs, or for any other lawful use or purpose which shall not adversely affect the validity or enforceability of this Lease. Tenant will use the Premises in a careful, safe and proper manner and will not commit waste, overload the floor or structure of the Premises or subject the Premises to use that would damage the Premises. Tenant shall not permit any objectionable or unpleasant odors, smoke, dust, gas, noise, or vibrations to emanate from the Premises, or take any other action that would constitute a nuisance. Tenant, at its sole expense, shall use and occupy the Premises in compliance with all laws, including, without limitation, the Americans With Disabilities Act, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Premises (collectively, "Legal Requirements"). Tenant shall, at its expense, make any alterations or modifications, within or without the Premises, that are required by Legal Requirements related to Tenant's use or occupation of the Premises.

Tenant shall not improperly handle within or about the Premises any dangerous, flammable, toxic or explosive material. Tenant shall indemnify Landlord and hold it harmless against any and all damage, injury, or claims resulting from the moving of Tenant's equipment, furnishing and/or materials into or out of the Premises or from the storage or operation of the same. Any and all damage or injury to the Premises caused by such moving, storage or operation shall be repaired promptly by Tenant at Tenant's sole cost. Tenant shall not install any equipment whatsoever which will or may necessitate any changes, replacements or additions to the water system, plumbing system, heating system, air conditioning system or the electrical system of the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.

- 5. <u>Utilities</u>. Tenant shall, at its sole cost and expense, pay and be responsible for all water, gas, electricity, heat, light, power, telephone, sewer, sprinkler, refuse and trash collection, and other utilities and services used on the Premises, all maintenance charges for utilities, and any storm sewer charges or other similar charges for utilities imposed by any governmental entity or utility provider, together with any taxes, penalties, surcharges or the like pertaining to Tenant's use of the Premises. Tenant shall cause, at Tenant's expense, gas and electricity to be separately metered or charged directly to Tenant by the provider and may cause, at Tenant's expense, any other utilities to be separately metered or charged directly to Tenant by the provider. No interruption or failure of utilities shall result in the termination of this Lease or the abatement of Rent.
- 6. <u>Alterations</u>. Tenant shall make no alterations, additions, improvements or changes, structural or otherwise, to any part of the Premises, either exterior or interior, without Landlord's

prior written consent, which consent shall not be unreasonably withheld or delayed. Request for such consent shall be accompanied by plans and specifications of Tenant's proposed work. Tenant shall comply with the building codes, regulations and laws now or hereafter to be made or enforced in the municipality, county and/or state, which pertain to such work. Any additions, improvements, alterations and/or installations made by Tenant (except office furniture, trade fixtures, machinery and business equipment) shall become and remain a part of the Premises and shall remain Landlord's property upon the termination of Tenant's occupancy of the Premises. Tenant shall save Landlord harmless from and against all expenses, liens, claims or damages to either property or person which may or might arise by reason of the making of any such additions, improvements, alterations and/or installations.

7. Repairs by Tenant. Tenant shall keep, maintain and repair in good order and condition all portions of the Premises and all interior components or parts thereof, including without limitation the lighting and plumbing fixtures, interior walls, flooring, and windows. Landlord will be responsible to maintain the roof, exterior walls, the foundation, structural components, gutters and downspouts, "hvac," exterior lighting, electrical, mechanical, plumbing lines, sewer lines, fire and life safety, and security systems (the "Systems"). Tenant shall be responsible for any damages to the Premises caused by or resulting from any act or omission of Tenant, its agents, servants, employees, contractors, guests or visitors. Except as specifically set forth in this Lease, Landlord shall have no duty to Tenant to make any repairs or improvements to the Premises and Tenant shall be solely responsible therefor, including structural or other repairs necessary for safety and tenantability not brought about by any act, omission or neglect of Landlord, its agents, employees or visitors.

Landlord shall not be liable for damage caused to the person or property of Tenant, its agents, employees or invitees, due to the Premises or any part or appurtenances thereof being improperly constructed or being or becoming out of repair, or arising from the leaking of water or sewer, or from electricity, or from any other cause whatsoever. Tenant shall not do or permit any other Person under its control to do any work in or about the Premises or related to any repair, rebuilding, restoration, replacement, alteration of, or addition to the Premises, or any part thereof, unless the Tenant or such other Person shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. All such work shall be done in a good and workmanlike manner and in compliance with all applicable laws, ordinances, governmental regulations, and requirements.

- 8. <u>Taxes</u>. It is understood that both the Tenant and Landlord are exempt entities which are not required to pay *ad valorem* taxes on either the Property nor the Premises. In the event, however, that Tenant allows a sublessee to occupy the Premises, and said sublessee's interest is determined to result in a taxation property interest, Tenant agrees to collect any sum which may be assessed as against the sublessee's interest or ensure that any such taxes which are levied as against the Premises or the Property as a result of Tenant's or its sublessee's use of the Premises are properly paid so as to prevent the creation of a lien against the Premises or the Property.
- 9. <u>Insurance</u>. At its sole expense and throughout the Lease Term, Tenant shall keep the Premises adequately insured at all times and shall maintain with financially responsible

insurers qualified to do business in the State and of recognized standing with respect to its facilities and operations insurance of such types, in such amounts and against such risks as are customarily maintained by persons in similar circumstances regarding facilities of a comparable type and size and offering comparable services as those of the Premises, including (without limitation) the following insurance to the extent that such insurance is customarily maintained by such persons: (i) full fire and extended coverage insurance on the Premises providing for not less than full recovery of the insurable value (less reasonable deductibles and exclusions) of any damaged property; (ii) public liability and property damage insurance, including (without limitation) business automobile liability insurance and medical and professional insurance in amounts estimated to insure (less reasonable deductibles and exclusions) Tenant and Landlord against the estimated loss or damage relative to use of the Premises. It is understood by Tenant and Landlord that Landlord is required by the Loan Agreement between Landlord and the Macon-Bibb County Urban Development Authority dated as of August 1, 2012 (the "Loan Agreement") to maintain insurance on the Property and the Premises, which may be in additional and/or supplemental to the insurance required by Tenant under this Lease. Neither Tenant nor its insurer shall be entitled to any set-off as against insurance proceeds which may be received by or due to Landlord under its insurance policies, and Tenant's insurance required hereunder shall be primary to and required to pay first for any claim for damage sustained to the Premises; provided that Landlord shall not be entitled to additional insurance proceeds from all policies held by Tenant and Landlord after the combined and received insurance proceeds (with Tenant's insurance being primary) exceed: (i) the value of the Property and reasonable expenses of Landlord resulting from the damage, or (ii), the outstanding amount then owed under the Loan Agreement, whichever is greater.

- 10. Property at Tenant's Risk. It is understood and agreed that all personal property in the Premises, of whatever nature, whether owned by Tenant or any other person, shall be and remain at Tenant's sole risk and Landlord shall not assume any liability or be liable for any damage to or loss of such personal property, arising from the bursting, overflowing, or leaking of the roof or of water or sewer pipes, or from heating or plumbing fixtures or from the handling of electric wires or fixtures or from any other cause not arising from the negligence of Landlord or others within its control.
- 11. <u>Indemnification</u>. Tenant agrees that it will save Landlord and Macon-Bibb County Urban Development Authority harmless from any and all liabilities, damages, causes of action, suits, claims, judgments, costs and expenses of any kind (including reasonable actual attorneys' fees) (i) relating to or arising from or in connection with the possession, use, occupation, repair, maintenance or control of the Premises or any portion thereof by Tenant, or (ii) arising from or in connection with any negligence or willful misconduct of Tenant or Tenant's agents or employees, or (iii) resulting from any uncured default hereunder by Tenant, violation or injury to person or property or loss of life sustained in the Premises. The obligation of Tenant to indemnify under this paragraph shall not extend to cover the negligence, conduct or activities of third parties, sublessees which Lessee has required provide separate insurance covering such matters, or invitees. It is understood between the parties that they each will maintain insurance as against such liability, for the Premises as to Tenant, and for the entire Property, as to Landlord, and as between them, it is

intention of the parties to look toward insurance to cover and pay for any claims arising at the Property, first, prior to and in lieu of seeking direct liability of the other.

12. <u>Damage</u>. If the Premises are damaged by fire or other casualty, without the fault or neglect of Tenant, its servants, employees, agents, contractors or invitees, the damage shall be repaired, subject to the requirements of Section 7.01 of the Loan Agreement, by Landlord; however, Tenant shall be required to pay the full amount of the Base Rent for the Premises throughout the Term absolutely, notwithstanding a portion of the Premises being untenable due to damage or work to repair damage. If, however, the Premises are rendered untenantable by fire or other cause, or pursuant to Section 7.01 of the Loan Agreement, Landlord shall decide not to rebuild the same, then Landlord shall have the right to terminate the Lease as of the date of such casualty as if such date were the originally scheduled expiration date hereof, and Tenant shall promptly vacate the Premises and surrender the same to Landlord.

In the event that this Lease is not terminated, then Landlord shall have the right to receive from Tenant the total insurance proceeds payable in connection with the fire or other casualty, plus the amount of any applicable deductibles payable by Tenant in connection with, or under or pursuant to, the applicable insurance policy or policies. In such event, Tenant shall pay over to Landlord any and all insurance proceeds (including, without limitation, self insurance proceeds) attributable to the Premises as a result of such fire or other casualty (whether before or after the effective date of any such termination), plus the amount of any applicable deductibles payable by Tenant in connection with, or under or pursuant to, the applicable insurance policy or policies, and Tenant shall at Landlord's option either assign to Landlord all of its right, title and interest in, to and under any insurance policies which have not yet been collected by, paid to or received by Tenant, or shall prosecute its claim for such insurance proceeds for the benefit of Landlord.

Condemnation. If the Premises or any part thereof shall be taken by any governmental or quasi-governmental authority pursuant to the power of eminent domain, or by deed in lieu thereof, Tenant agrees to make no claim for compensation in the proceedings except as set forth herein, and hereby assigns to Landlord any rights which Tenant may have to any portion of any award made as a result of such taking, and this Lease shall terminate as to the portion of the Premises taken by the condemning authority and Rental shall be adjusted to such date. Tenant shall be entitled to claim, prove and receive in the condemnation proceedings such awards as may be allowed for relocation expenses, for the unamortized cost of any alterations, additions or improvements, made by Tenant, for the value of this Lease, and for fixtures and other equipment installed by it which shall not, under the terms of this Lease, be or become the property of Landlord at the termination hereof, but only if such awards shall be made by the condemnation court in addition to and stated separately from the award, or allocated separately as a part of a single award made by it to Landlord for this Lease and for the Premises or part thereof so taken. If the nature, location or extent of any proposed condemnation affecting the Premises is such that Landlord elects in good faith to demolish the Premises, then Landlord may terminate this Lease by giving written notice of termination to Tenant within sixty (60) days after such condemnation, and this Lease shall cease and terminate on the date specified in such notice as if such day were the originally scheduled expiration date hereof. Each party agrees to cooperate with the other in the prosecution of their respective claims in any such condemnation proceedings

- by Tenant under this Lease: (a) if Tenant fails to pay Rent or any other payment when due and payable; (b) if Tenant shall fail in performing any of the covenants, terms or provisions of this Lease (other than the payment, when due, of any of Tenant's monetary obligations hereunder) and fails to cure such default within thirty (30) days after written notice thereof from Landlord; (c) if Tenant is adjudicated a bankrupt; or if a permanent receiver is appointed for Tenant's property; (d) if, whether voluntarily or involuntarily, Tenant takes advantage of any debtor relief proceedings under any present or future law, whereby the Rent or any part thereof, is or is proposed to be, reduced or payment thereof deferred; (d) if Tenant makes an assignment for the benefit of creditors; or (e) if Tenant's property or effects should be levied upon or attached under process against Tenant; then, and in any of said events, Landlord, at its option may pursue any one or more of the following remedies without any notice or demand whatsoever:
- (a) Landlord, at its option, may at once, or at any time thereafter terminate this Lease, whereupon this Lease shall end. Upon such termination by Landlord, Tenant will promptly surrender possession of the Premises to Landlord and remove all of Tenant's effects therefrom, and Landlord may forthwith re-enter the Premises and repossess itself thereof, and remove all persons and effects therefrom; and/or
- Landlord may, with or without terminating this Lease, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof (to the extent permitted by applicable law), and, if Landlord so elects, make such alterations and repairs as, in Landlord's judgment, may be reasonably necessary to relet the Premises, and relet the Premises and any part thereof for such Rent and for such period of time and subject to such terms and conditions as Landlord may deem advisable and receive the Rent therefor. Upon each such reletting, all Rent received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any loss and reasonable expenses of such reletting, including brokerage fees, attorneys' fees and the cost of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future Rent as the same may become due and payable hereunder; provided, however, that any excess Rent remaining at the expiration or other termination of this Lease shall be the property of Landlord and Tenant hereby relinquishes any claim thereto. Landlord agrees to use commercially reasonable efforts to mitigate its damages in connection with the exercise of its rights hereunder. Tenant agrees to pay to Landlord, on demand, any deficiency that may arise by reason of such reletting. Notwithstanding any such reletting without termination, Landlord may, at any time thereafter, elect to terminate this Lease for such prior default; and/or
- (c) In the event Landlord terminates this Lease in accordance with the provisions of this Paragraph 14, Landlord shall be entitled to damages for all Rent and other charges which would be payable for the balance of the term remaining after the date of such termination in addition to any other remedy it may have and damages for all past due Rent and other monies owed by reason of Tenant's default hereunder, including, without limitation, the cost of recovering the Premises and reasonable attorneys' fees; and/or

(d) As agent of Tenant, Landlord may do whatever Tenant is obligated to do by the provisions of this Lease. Tenant agrees to reimburse Landlord immediately upon demand for any reasonable expenses which Landlord may incur in thus effecting compliance with this Lease on behalf of Tenant, and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action, unless caused by the negligence or willful misconduct of Landlord or others within its control.

Pursuit of any of the foregoing remedies shall not preclude Landlord from pursuing any other remedies herein or at law or in equity provided, nor shall pursuit of any remedy by Landlord constitute a forfeiture or waiver of any Rent due to Landlord hereunder or of any damages accruing to Landlord by reason of Tenant's violation of any of the covenants and provisions of this Lease; unless the provision of this Lease from which said remedy arises specifically recites that said remedy shall be exclusive and then only to the extent Landlord's other remedies are waived or restricted. Notwithstanding the foregoing, it is understood and agreed to by Landlord that the notices of default and opportunity to cure provided herein shall be given by Landlord to Tenant and shall have expired without cure prior to the exercise by Landlord of any right or remedy provided for or reserved herein.

15. Assignment; Subletting. Tenant may assign, sublet or rent any part of the Premises with prior written permission of Landlord, except that no such assignment, sublet, or rental shall relieve Tenant of its obligations under this Lease, including the payment of the Base Rent.

Tenant acknowledges that Landlord has assigned certain rights under this Lease pursuant to an Assignment of Lease and Security Agreement dated as of August 1, 2012 (the "Security Document") for the benefit of U.S. Bank National Association, as trustee for certain taxable revenue bonds issued by the Macon-Bibb County Urban Development Authority. Tenants consents to such assignment. Following the occurrence and continuation of a default by Landlord under the Security Document (which shall be evidenced by written notification from the Trustee), Landlord directs and Tenant agrees that payment of Base Rent hereunder (or such portion thereof as may be applicable) shall be made directly to the Trustee at its designated corporate trust office.

- Signs. No sign, advertisement or notice shall be inscribed, painted, affixed or displayed on the windows or exterior walls of the Premises, except as approved by Landlord, which approval shall not be unreasonably withheld, and which conform to all applicable laws and/or ordinances. Any and all permitted signs shall be installed and maintained by Landlord at Tenant's sole expense. Upon surrender or vacation of the Premises, Tenant, at its sole expense, shall remove all signs and repair any damage caused by the removal thereof.
- 17. <u>Landlord Access</u>. On reasonable prior notice to Tenant, Landlord may enter the Premises at reasonable hours to exhibit the same to prospective purchasers, mortgagees or, prospective Tenants; to inspect the Premises to see that Tenant is complying with all its obligations hereunder; all without any abatement of Rent by Tenant or liability of Landlord for damages suffered or incurred by reason of loss of business or otherwise by Tenant. Except as provided in the preceding sentence, entry pursuant to this Paragraph shall not be deemed to impose any constructive

or actual notice to Landlord regarding the condition of the Premises, or to constitute an actual or constructive eviction of Tenant. In the event of an emergency, or if otherwise necessary to prevent injury to person or property, such entry to the Premises may be made by force without any liability on the part of Landlord for damages resulting therefrom.

- Covenant Against Liens. No work performed by Tenant in the Premises, whether pursuant to this Lease, or otherwise, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord, to the end that no mechanic's, materialmen's or other lien shall be allowed against the estate of Landlord by reason of any consent given by Landlord to Tenant to improve the Premises. Tenant shall pay promptly all persons furnishing labor or materials with respect to any work performed by Tenant or its contractor on or about the Premises. In the event any mechanic's, materialmen's or other liens shall at any time be filed against the Premises or Landlord's estate therein, by reason of work, labor, services or materials performed or furnished, or alleged to have been performed or furnished, to Tenant or anyone holding the Premises by, through or under Tenant, Tenant either shall cause the same to be vacated and cancelled of record within twenty (20) days after the date Tenant receives actual notice of the filing thereof or, if Tenant in good faith determines that such lien should be contested, Tenant shall furnish such security, by surety bond or otherwise, as may be necessary or prescribed by law to release the same as a lien against the Premises, or any portion thereof or interest therein and to prevent any foreclosure of such lien during the pendency of such contest. If Tenant shall fail to vacate or release such lien in the manner and within the time set forth herein, then, in addition to any other right or remedy of Landlord resulting from such default of Tenant, Landlord may, but shall not be obligated to, vacate or release the same either by paying the amount claimed to be due or by procuring the release of such lien by giving security or in such other manner as may be prescribed by law. Tenant shall repay to Landlord, on demand, all sums incurred, disbursed or deposited by Landlord pursuant to the foregoing provisions of this Section, including Landlord's costs and expenses and reasonable actual attorneys' fees incurred in connection therewith. Nothing contained in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials, for any specific improvement, alteration to or repair of the Premises, or any part thereof, nor as giving Tenant a right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials whether as agent of or on behalf of or to the benefit of Landlord or otherwise, or that would give rise to the filing of any mechanic's, materialman's, laborer's or other liens against Landlord's interest in the Premises.
- 20. <u>Hold-Over</u>. If Tenant shall not immediately surrender the Premises on the day after the end of the Term (whether same occurs by termination or expiration), then at Landlord's sole option Tenant shall become a Tenant by the month at a Rental equal to one and one-half times the Rent existing at the time of said hold over, commencing said monthly tenancy with the first day after the end of the term above demised or the date of any earlier termination as provided in this Lease; and said Tenant, as a monthly Tenant, shall be subject to all of the conditions and covenants of this Lease as though the same had originally been a monthly tenancy. Each party hereto shall have the right to terminate such monthly tenancy upon thirty (30) days' written notice to the other.

- Purchase Option. Upon the end of the Term, Tenant shall have the right and option (the "Option") to purchase the Property from Landlord upon the terms and conditions set forth below, exercisable at any time and from time to time during the Option Period (as defined below). The Option may be exercised by Tenant in the manner set forth below at any time during the period which commences on July 1, 2022 and which expires at midnight, Georgia time, on the earlier of (i) the date this Lease expires or is earlier terminated, or (ii) June 30, 2023 (said period being the "Option Period"). Within thirty (30) days after the exercise of the Option by Tenant, Tenant and Landlord shall mutually agree to a Georgia-licensed Real Estate Appraiser (the "Appraiser") to perform a valuation of the Property as of the date of the exercise of the Option. Once the Appraiser has been selected and agreed by the parties, the Appraiser shall perform an appraisal of the Property using market comparable, income and/or cost approaches, as the Appraiser may deem appropriate and determine the fair market value of the Property (the "FMV") and shall communicate the same in writing to both Landlord and Tenant (the date of said writing to be the "Appraisal Date"). The purchase price to be paid by Tenant for the Property shall be calculated by: (i) starting with the FMV, and then (ii) multiplying the FMV by 66.67% (the "Purchase Price"). Within thirty (30) days of the Appraisal Date, Tenant must notify Landlord of its intention to pay the Purchase Price and acquire the Property or terminate the Option. If Tenant elects to continue to acquire the Property at the Purchase Price, Tenant and Landlord will proceed to close on the sale as expeditiously as possible, following the end of the Term of this Lease, but not later than sixty (60) days following the end of the Term.
- 22. Estoppel Certificates. Each party agrees, at any time and from time to time, upon not less than twenty (20) days' prior written notice by the other party, to execute, acknowledge and deliver to the other party or to such person(s) as may be designated by the other party, a statement in writing (i) certifying that Tenant is in possession of the Premises, has unconditionally accepted the same (if such is the case) and is currently paying the Rents reserved hereunder, (ii) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (iii) stating the Rent Commencement Date and the dates to which the Rent and other charges hereunder have been paid by Tenant and (iv) stating whether or not to the best knowledge of the certifying party, the other party is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which notices to the other party should be sent. Any such statement delivered pursuant hereto may be relied upon by any owner, prospective purchaser, mortgagee or prospective mortgagee of the Premises or of Landlord's interest therein, or any prospective assignee of any such mortgagee or any assignee or sublessee, or any prospective assignee or sublessee, of Tenant.
- 23. Quiet Enjoyment. Landlord warrants that it has the right to make this Lease for the term aforesaid and that it will put Tenant into complete and exclusive possession of the Premises. Landlord covenants that if Tenant pays the Rent and all other charges provided for herein, performs all of its obligations provided for hereunder and observes all of the other provisions hereof, Tenant shall at all times during the term hereof peaceably and quietly have, hold and enjoy the Premises, without any unreasonable interruption or disturbance from any person whatsoever, subject to the terms hereof.

24. Notices. All notices required or desired to be given hereunder by either party to the other shall be delivered by hand or sent, postage prepaid, by receipted overnight courier service or by certified or registered mail, return receipt requested, and shall be deemed delivered on the date of delivery or of refusal to accept delivery or inability to deliver, as evidenced on said receipt, or if delivered by hand, upon receipt. All Rents and other monetary obligations arising hereunder, and all notices to the respective parties shall be addressed and sent as follows:

If to Landlord:

Central Georgia Partnership for Individual

and Community Development, Inc. 1780 Anthony Road, Suite A Macon, Georgia 31204 Attention: President

With a copy to:

Smith, Hawkins, Hollingsworth & Reeves, LLP

688 Walnut Street, Suite 100

Post Office Box 6495 Macon, Georgia 31208

Attention: G. Boone Smith, IV, Esq.

If to Tenant:

Bibb County School District

c/o Board of Pubic Education for Bibb County

Bibb County Schools 484 Mulberry St. Macon, GA 31201

Attention: Superintendent

- 25. <u>Applicable Law</u>. This Lease shall be construed under the laws of the State of Georgia, without regard to conflicts of law doctrine.
- 26. <u>No Reservation</u>. The submission of this Lease for examination does not constitute a reservation of or option for the Premises, and this Lease becomes effective only upon execution and delivery thereof by Landlord.
- Gender; Assign and Successors. Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural may be substituted for the singular number, in any place or places herein in which the context may require such substitution or substitutions. The term "Landlord" as used in this Lease, means only the owner for the time being of Landlord's interest in this Lease; and, in the event of the sale, assignment or transfer by such owner of Landlord's interest in this Lease, such owner shall thereupon be released and discharged of all covenants and obligations of Landlord hereunder thereafter accruing. Except as provided in the preceding sentence, all of the covenants, agreements, terms, conditions, provisions and undertakings in this Lease shall inure to the benefit of, and shall extend to and be binding upon, the parties hereto and their respective heirs, executors, legal representatives, successors and, to the extent an assignment is approved as provided herein, assigns, to the same extent as if they were in every case named and expressed.

- 28. <u>Severability</u>. If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this Lease or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Lease shall be valid and enforced to the fullest extent permitted by law.
- 29. Force Majeure. The time within which Landlord or Tenant is obligated hereunder to construct, repair, or perform any other act required under the terms of this Lease, except for Tenant's Rental obligations hereunder, shall be extended and the performance excused when the delay is occasioned by strikes, threats of strikes, lockouts, war, threats of war, bombing, insurrection, invasion, acts of God, calamity, violent action of the elements, fire, action or regulation of any government agencies, laws, or ordinances, impossibility of obtaining materials, and other things beyond the reasonable control of the obligated party.
- 30. Remedies Cumulative; No Waiver. Except where expressly set forth to the contrary herein, all rights and remedies given herein and/or by law or in equity to either party are separate, distinct and cumulative, and no one of them, whether exercised or not, shall be deemed to be in exclusion of any of the others. No failure of by either party to exercise any power given to that party hereunder, or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of such party's right to demand exact compliance with the terms hereof.
- 31. Entire Agreement; Modifications. This writing is intended by the parties as the final expression of their agreement and as a complete and exclusive statement of the terms thereof, all prior or contemporaneous negotiations, considerations and representations between the parties having been incorporated herein. No course of prior dealings between the parties or their affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of this Lease. No representations, understanding or agreements have been made or relied upon in the making of this Lease other than those specifically set forth herein. This Lease can only be modified by a written agreement signed by all of the parties hereto or their duly authorized agents.
- 32. <u>Headings</u>. Captions and headings are for convenience and reference only and do not in any way limit or amplify the terms and provisions of this Lease.
 - 33. Time Is Of The Essence. TIME IS OF THE ESSENCE OF THIS LEASE.
- 34. Execution and Public Records. This Lease may be executed in any number of counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete in itself and may be introduced into evidence or used for any purpose without the production of the other counterparts. No modification or amendment of this Lease shall be binding

upon the parties unless such modification or amendment is in writing and signed by Landlord and Tenant. Without the prior written consent of both parties, neither this Lease nor any memorandum hereof shall be recorded or placed on public record.

- 35. <u>Interpretation</u>. In construing and interpreting this Lease, no presumption shall be employed that either party was solely responsible for drafting this Lease and that it should, therefore, be construed most strongly against such party. This Lease has been negotiated equally by both Landlord and Tenant.
- 36. Real Estate Brokers. Tenant and Landlord each represents and warrants to the other that no real estate broker, agent, commission salesperson, or other persons has represented the warranting party in the negotiations for and procurement of this Lease and of the Premises, and that no commissions, fees or compensation of any kind are due and payable in connection herewith to any real estate broker, agent, commission salesman or other person except if and only as may be provided in a separate written commission agreement signed simultaneously with or before this Lease by the party against whom the commission or compensation is charged. Each party agrees to indemnify and hold the other hereunder harmless from and against any claim for any such commissions, fees or other form of compensation by any such third party claiming through the indemnifying party, including without limitation, any and all claims, causes of action, damages, costs and expenses (including attorneys' fees), associated therewith.
- 37. Hazardous Materials. Tenant shall not permit or cause any party to bring any Hazardous Material upon the Premises or transport, store, use, generate, manufacture or release any Hazardous Material in or about the Premises without Landlord's prior written consent. Tenant, at its sole cost and expense, shall operate its business in the Premises in strict compliance with all Environmental Requirements. The term "Environmental Requirements" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any governmental authority or agency regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder. The term "Hazardous Materials" means and includes any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, under any Environmental Requirements, asbestos and petroleum, including crude oil or any fraction thereof, natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Requirements, Tenant is and shall be deemed to be the "operator" of Tenant's "facility" and the "owner" of all Hazardous Materials brought on the Premises by Tenant, its agents, employees, contractors or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom.

Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all losses (including, without limitation, diminution in value of the Premises), claims, demands, actions, suits, damages (including, without limitation, punitive damages), expenses (including, without limitation, remediation, removal, repair, corrective action, or cleanup expenses), and costs

(including, without limitation, actual attorneys' fees, consultant fees or expert fees and including, without limitation, removal or management of any asbestos brought into the Premises or disturbed in breach of the requirements of this Paragraph 36 regardless of whether such removal or management is required by law) which are brought or recoverable against, or suffered or incurred by Landlord as a result of any release of Hazardous Materials or any other breach of the requirements under this Paragraph 36 by Tenant, its agents, employees, contractors, Tenants, assignees or invitees, regardless of whether Tenant had knowledge of such noncompliance. The obligations of Tenant under this Paragraph 36 shall survive any termination of this Lease.

38. <u>Landlord Liability</u>. Landlord's obligations and liability to Tenant with respect to this Lease shall be limited solely to Landlord's interest in the Premises. Neither Landlord nor any officer, director, or shareholder of Landlord shall have any personal liability whatsoever with respect to this Lease.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective duly authorized officers on the day and year first above written.

LANDLORD:

CENTRAL GEORGIA PARTNERSHIP FOR INDIVIDUAL AND COMMUNITY DEVELOPMENT, INC.

By:_

ame: Jimm

Title: Preside

TENANT:

BIBB COUNTY SCHOOL DISTRICT

By:

William Thomas Barnes, III, President, Board of Public Education for Bibb County

EXHIBIT "A"

Property (Legal Description)

The Property consists of the land described below and an approximately 100,000 square foot office and classroom building located at 1780 Anthony Road, Macon Georgia 31204.

All that tract or parcel of land lying and being in Land Lot Thirty-Nine (39) of the Macon Reserve West, in Bibb County, Georgia, and also being located in the City of Macon, and being more particularly described by reference to a plat of the S.J. Gostin Company, Inc., dated December 5, 1965, and revised January 17, 1966, of record in Plat Book 40, Folio 159, Clerk's Office, Bibb Superior Court.

The property herein conveyed is more particularly described with reference to said plat as beginning at a concrete monument located on the south right of way line of Anthony Road at a point where the line dividing the property herein conveyed from that now or formerly owned by Bibb Service Company intersects said road (said point being two hundred forty (240) feet west of the point where the line dividing Land Lots 39 and 40 intersects said road (said point being 240 feet west of the point where the line dividing Land Lots 30 and 40 intersects said right of way); and running thence S 01° 00' E 1,089.2 feet to a concrete monument; thence N 89° 54' W a distance of 600 feet to a concrete monument; thence N 01° 00' W 1,089.2 feet to a concrete monument on the south right of way line of Anthony Road; thence S 89° 54' E along said right of way 600 feet to the point of beginning.

Being the same property described in the Quitclaim Deed from Georgia Education Authority (Schools) to Board of Education and Orphanage for Bibb County dated August 1, 1979 and recorded in Deed Book 1361, Page 475, Clerk's Office, Bibb Superior Court.

Bibb County Board Of Education 484 Mulberry St. Macon, Ga. 31201 ATTENTION: Superintendent Dallemand Central Georgia...

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Partnership for Individual & Community Development

Central Georgia Partnership for Individual & Community Development, Inc.
ATTENTION: Jimmie Samuel
653 Second Street
Macon, GA 31201

Invoice # 201207-13

Invoice

Date

7/13/2012

REVISED 10/1

10/19/2012

Due Date UP

UPON RECEIPT

ltem 📑	Description	Unit Price	Quantity	Amount 19
Expense	School District's 2012 contribution for Macon	\$ 1,000,000.00	1	\$1,000,000.00
	Promise Neighborhood match Commitment			
	for: (i) CGPICD to customize/build-out the			
	interior of the Facility located at 1780			22
	Anthony Road, and (ii) initial MPN costs and	ž.		*
	services related to educational purposes,		10	
	extracurricular and interscholastic activities			
	and programs, and use of the Facility			
			. "	
				er t
Make check payable to "Central Georgia Partnership for Individual & Community Development, Inc."		Subtotal		\$1,000,000.00
		Total		\$1,000,000.00
		Amount Paid		-\$0-
	d	Balance Due		\$1,000,000.00

Jimmie Samuel

PLAINTIFF'S EXHIBIT

Bibb County Board Of Education Bibb County School District ("BCSD") 484 Mulberry St. Macon, Ga. 31201 ATTENTION: Superintendent Dallemand

Central Georgia Partnership for Individual & Community Development, Inc.
ATTENTION: Jimmie Samuel
653 Second Street
Macon, GA 31201



Partnership for Individual & Community Development



Invoice # 201207-13

Invoice

Date 7/13/2012

REVISED 10/23/2012

Due Date UPON RECEIPT

				in the second second
Expense	BCSD's 2012 participation for Macon Promise	\$ 1,000,000.00	1	\$1,000,000.00
	Neighborhood match Commitment for			
	CGPICD to customize/ build-out the interior			×
	of the Facility located at 1780 Anthony Road,			
	related to educational purposes,			· ·
	extracurricular and interscholastic activities	ja .		
	and programs, and BCSD and MPN's use of	2		
	the Facility†			
*	× *			
Make check payable to "Central Georgia		Subtotal		\$1,000,000.00
Partnership for Individual & Community				
		Total		\$1,000,000.00
Development, Inc."		to 2		31,000,000.00
* · · · · · · · · · · · · · · · · · · ·		Amount Paid		->U-
		Balance Due		\$1.000pp00000

Immie Samuel
Jimmie Samuel

†CGPICD will provide its audited financial statements for 2012 Fiscal Year to BCSD, which statements shall specifically cover the expenses set forth in this invoice, within six (6) months of CGPICD's fiscal year or by August 31, 2013, whichever is later.



December 10, 2012

PROPOSED LETTER FOR SUPERINTENDENT ATTORNEY WORK PRODUCT

Dear Mr. Collier:

This letter serves to notify you that, effective immediately, you are an administrator on special assignment pending an investigation into practices within your department.

While the District's internal investigation is ongoing, your full cooperation is expected. This means that you must present yourself for questioning as directed and provide all requested information and documents during the course of the investigation.

You are not to engage in any conduct that may interfere with or undermine the District's investigation, intentionally or otherwise. To ensure the integrity of the investigation, you are hereby instructed not to have any communication with anyone other than the District's investigating officials or your own legal representative regarding the specifics of any interviews that take place in connection with the pending investigation. In addition, you are not to take any action, either directly or indirectly, to destroy public records or data to specifically include emails and other electronic records and data. Your failure to adhere to these directives may result in further disciplinary action, up to and including termination.

You are to report directly to Dr. Kelly Castlin-Gacutan, Deputy Superintendent of School Operations until further notice.

Respectfully

Romain Dallemand, Ed.D. Superintendent of Schools

Board of Education 484 Mulberry Street Macon, GA 31201

PLAINTIFF'S EXHIBIT